IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

WP(C).No. 13501 of 2007(G)

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PETITIONER:

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PARAMESWARAN, MANAGING PARTNER,
SREE LAKSHMI AGENCIES, KODUNGALLOOR,
THRISSUR.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS:

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1. THE DEPUTY COMMISSIONER (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM.

2. THE COMMERCIAL TAX OFFICER,
KODUNGALLUR.

3. THE DEPUTY TAHSILDAR (RR),
KODUNGALLUR.

BY G.P. SRI. MOHAMMED RAFFIQ

THIS WRIT PETITION (CIVIL) HAVING FINALLY COME UP FOR ADMISSION ON 04/06/2007, ALONG WITH WPC 13502 & 13503/2007
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

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W.P.C. NO. 13501, 13502
& 13503 OF 2007

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Dated this the 4th day of June, 2007

JUDGMENT

Petitioner is challenging conditional stay orders issued by the appellate authority during the pendency of the sales tax appeals directing petitioner to pay 25% of the tax arrears as a condition for stay. Even though time for payment has expired by 29.3.2007, petitioner did not make payment and the recovery authorities did not take any action inspite of default. All what the petitioner relies on in this Court is the budget speech of the Minister whereunder he has made a proposal for granting exemption to small dealers of oil purchasing and selling it. There is no need for this Court to consider budget speech of the Minister because it is only a speech made when finance bill was presented. However, it is conceded that statute is not amended which obviously means that the Minister's proposal was not accepted by the House. If conditional stay orders are not complied with, recovery authority is bound to proceed for recovery failing which

disciplinary action has to be taken against him. In any case, there is no scope for considering the correctness of the stay orders because without going into the merits of the case, interim orders cannot be interfered with. If this Court considers and decides on the merits of the case, then the appeals will become infructuous. In the circumstances, and since conditional stay orders are apparently reasonable, there is no scope for interference at all. W.Ps. are accordingly dismissed. However, since some confusion is created by the budget speech I feel petitioner can be granted time till 30th June, 2007 for payment in terms of the interim orders of the appellate authority. If payment is not made as above, then there will be direction to the Tahsildar to proceed for recovery of full amount forthwith failing which he is liable for disciplinary action. If payment is made as above, the appellate authority is directed to take up the appeals out of turn and dispose of the same within three months from the date of making payment as above.

(C.N.RAMACHANDRAN NAIR)
Judge